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Tips and Tidbits
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Question: What is the difference between Family Friendly Sick Leave (FFSL) and leave under the Family & Medical Leave Act (FMLA)? Under what circumstances may employees invoke these types of leave?

FFSL and FMLA are separate and distinct programs granting employee entitlements for the use of leave to meet family responsibilities. Potentially, an employee could invoke his/her right separately, under both Programs, if they meet eligibility requirements of each. This could ultimately result in an absence from the workplace for a total of 24 weeks.

Family-Friendly Sick Leave (FFSL) is an extension of an employee's own sick leave used to care for a family member's medical needs. An employee may also use FFSL to make funeral or related arrangements following the death of a family member. FFSL is not a separate leave account or balance. Rather, it is simply a different use of the leave in the employee's "regular" sick leave account.

There are two categorical uses of FFSL: (1) General purpose FFSL which may be used to care for a family member who is physically or mentally incapacitated due to a short-term illness or injury; accompany a family member to a routine medical, dental, or optical examination; and, make funeral or related arrangements when a family member expires. (2) An employee may also utilize FFSL to care for a family member with a serious and/or chronic health condition such as cancer, heart attack, stroke, severe injuries, Alzheimer's disease, or pregnancy and childbirth. Under this Program, a family member is defined as a spouse, spouse's parents, children and their spouses, parents, siblings and their spouses, and any person whose association with the employee is equivalent to a family relationship.

An employee may use up to 104 hours (13 days) per leave year for general purpose FFSL and up to 480 hours (12 weeks) per leave year to care for a family member with a serious health condition if a balance of 80 hours of sick leave is maintained. If an employee has previously used any portion of the 13 days of sick leave for general family care or bereavement purposes in a leave year, that amount must be subtracted from the 12-week entitlement. If your employee has already used 12 weeks of sick leave to care for a family member with a serious health condition, he/she cannot use an additional 13 days in the same leave year for general family care purposes. An employee is entitled to a *total* of 12 weeks of sick leave each year for *all* family care purposes.

The Family and Medical Leave Act (FMLA) entitles eligible employees up to a total of 12 workweeks of unpaid leave during any 12-month period for the birth and care of a newborn child; the placement of a child with an employee for adoption or foster care; to care for an immediate family member (spouse, child, parent) with a serious health condition; or, to take medical leave when the employee is unable to work because of a serious health condition. The definition of a serious health condition is the same as listed above under the FFSL Program. To be eligible for FMLA benefits, the employee must have worked for the employer a total of 12 months and have worked at least 1,250 hours over the previous 12 months.

In order to use leave under the FMLA the employee is required to provide a 30-day advance notice of the need to take leave when the need is foreseeable and such notice is practicable. If the employee or employee's representative is physically or mentally incapable of invoking the entitlement during the entire period he/she is absent from work, that employee may retroactively invoke the entitlement within 2 workdays after returning. You may also require the employee to provide medical certification supporting the request; periodic recertification; and periodic reports during FMLA leave regarding that employee's status and intent to return to work. The amount of leave approved must match the amount of time articulated by the health care provider. FMLA can be used intermittently upon your approval. Consistent with current laws and regulations, an employee may elect to substitute annual leave and/or sick leave for any unpaid leave under FMLA; however, be advised that you cannot force the use of such leave even if the absence qualifies under FMLA.

Upon return from FMLA leave, the employee must be returned to the same position or to an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment. It is unlawful to deny or discriminate against an employee who invokes FMLA leave rights.

If you have questions regarding the use of either of these Programs, contact your servicing Human Resources Specialist.

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